

RIVELIS, PAWA & BLUM, LLP
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Attorneys for Defendant
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BOARD OF MANAGERS OF THE 195 HUDSON
STREET CONDOMINIUM,

07 CIV 4058 (PKL)

Plaintiff,

-against-

JEFFREY M. BROWN ASSOCIATES, INC. and
LEXINGTON INSURANCE COMPANY,

Defendants.
-----X

DEFENDANT'S NOTICE OF MOTION TO DISMISS

COMES NOW the Defendant, Jeffrey M. Brown Associates, Inc. ("JMB"), and respectfully requests this Honorable Court to dismiss Plaintiff's claims against this Defendant pursuant to Rule 12 (b) because the complaint fails to state a claim upon which relief can be granted. Dismissal is appropriate for the following reasons:

1. Two (2) Justices of the Supreme Court of the State of New York, County of New York, have ruled that JMB is not the alter ego of non-party K&J Construction Co., LP.
2. Plaintiff is precluded from suing JMB on the same claim here, based upon res judicata and collateral estoppel.

PLEASE TAKE NOTICE, that the undersigned will bring the above motion on for hearing before this Court at a date and time to be determined by the Court, at the United States Court House, 500 Pearl Street, New York, New York.

Dated: July 30, 2007

Respectfully submitted,

RIVELIS, PAWA & BLUM, LLP

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record for Plaintiff, and sent copies by regular mail to:

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